TRANSMITTAL

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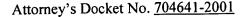
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Application Number

Filing Date

FORM	First Named	First Named Inventor		Lawrence James DELUCAS et al.			
	Art Unit	Art Unit		1743			
(to be used for all corresponde	g) Examiner N	ame	Monique Cole				
		Attorney Do	cket Number	704641-2001			
ENCLOSURES (check all that apply)							
Fee Transmittal Form	F	Formal Drawing(s) (sheets)			After Allowance Communication to TC		
Fee Attached	□Li	censing-related Papers	i	Appeal Communication to Board of Appeals and Interferences			
Amendment / Reply (16 p	gs).	etition to Correct Invent	orship	Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)			
After Final		Petition to Convert to a Provisional Application			Proprietary Information		
Affidavits/declaration(Power of Attorney, Revocation Change of Correspondence Address			Status Letter		
Extension of Time Reques		erminal Disclaimer	Disclaimer		Other Enclosure(s) (please identify below):		
Express Abandonment Request		Request for Refund			Response to Restriction Requirement		
		CD, Number of CD(s)					
☐ Information Disclosure Statement		Landscape Table on CD					
Certified Copy of Priority		Remarks					
Document(s) Reply to Missing Parts/							
Incomplete Application							
Reply to Missing Parts under 37 CFR1.52 or 1.53		:					
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT							
Firm	Bingh	Bingham McCutchen LLP					
Signature		Sharon ECiane					
Printed Name		Sharon E. Crane					
Date		November 6, 2006 Reg. No.		36,113			
CERTIFICATE OF TRANSMISSION/MAILING							
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.							
Signature							
Typed or printed name				Date	<u></u>		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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) Group Art Unit: 1743
) Examiner: Monique Cole
) Confirmation No.: 2655
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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In complete response to the Restriction Requirement mailed October 4, 2006, Applicants hereby elect, with traverse, the claims of Group I, Claims 1-8, for further prosecution in the subject application.

The claims were restricted into the following two groups:

- Claims 1-8, drawn to a method for distinguishing between biomolecule crystals and non-biocrystals.
- II. Claims 9-24, drawn to a device adapted for distinguishing between biomolecule crystals and non-biocrystals.

According to the MPEP § 803, a restriction between patentably distinct inventions is proper only where there is a serious burden on the examiner to examine all the claims in a single application. This is true even when appropriate reasons exist for a restriction requirement.

Attorney's Docket No. 701999-2001 Application No. <u>10/339,738</u>

In the present application, it is believed that because there is a close relationship

among the subject matter to which the Examiner requires restriction and election, there would

be no serious burden on the Examiner to examine all the claims at this time. For example, the

methods and device claims of Groups I and II, respectively, are both drawn to technologies

for distinguishing between biomolecule crystals and non-biocrystals. In fact, the Examiner

has recognized that both groups are drawn to the same technology because her descriptions of

the groups only differ by the use of the term "method" and "device."

In view of the above, it is respectfully requested that the restriction requirement be

withdrawn.

Applicants expressly reserve the right to file a divisional application covering the

subject matter of the non-elected claims.

Applicants earnestly solicit favorable consideration of the above response and early

passage to issue the present application. The Examiner is invited to contact the undersigned

at the below-listed telephone number, in order to expedite prosecution.

Respectfully submitted,

BINGHAM MCCUTCHEN, LLP

Date: November 6, 2006

By:

Registration No. 36,113

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